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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-fifth session

SUMMARY RECORD OF THE 1043rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 2 August 1994, at 10 a.m.

Chairman: Mr. GARVALOV

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GE.94-18159 (E)

The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5)

Eleventh and twelfth periodic reports of Canada (CERD/C/210/Add.2 and 240/Add.1)

1. At the invitation of the Chairman, Mr. Shannon, Mr. Hynes, Mr. Weiser, Ms. Whittaker and Mr. Duern (Canada) took places at the Committee table.

2. Mr. SHANNON (Canada), introducing the eleventh and twelfth reports, said that since Canada was a federal State and responsibility for implementing the Convention was shared between the federal, provincial and territorial governments, the reports made reference to developments in the laws, programmes and efforts of all those jurisdictions.

3. The demographic make-up of Canada was undergoing rapid and significant change and would continue to do so until well into the next century. In 1961, three-quarters of Canadians had been of British or French origin, 95 per cent of Canada's immigrants had come from Europe and the United States, and only 3 per cent of Canadians had represented visible minorities (a term used to describe persons who might experience discrimination by virtue of their skin colour). By 1990, 42 per cent of Canadians reported at least one origin other than British or French; just over 9 per cent identified themselves as members of visible minorities and about 70 per cent of new Canadian immigrants came from the Caribbean, Africa and Asia. By 2006, it was expected that between 13 and 18 per cent of Canadians would belong to visible minorities. Between 1986 and 1991, census figures for the aboriginal population rose by some 41 per cent, bringing the total up to 4 per cent of Canada's population. Although most Canadians saw that evolution as a positive and enriching one, some did not and a very small number of extremists periodically attempted to lay the blame for a host of social and economic problems at the door of ethnic or racial minorities. Vigilance with regard to racial discrimination thus continued to be necessary, but he remained confident in the fundamental attachment of Canada's people to values of freedom, equality, mutual respect and community.

4. Canada had various legislative and administrative schemes and government programmes aimed at eliminating racial discrimination, including the Charter of Rights and Freedoms, which in its section 15 guaranteed the right of equality and specifically prohibited discrimination on a variety of grounds including race, national or ethnic origin and colour. In addition, federal, provincial and territorial governments had established independent human rights commissions responsible for investigating, conciliating and resolving complaints of discrimination in both the public and private spheres. The Canadian Multiculturalism Act of 1988 also committed the Government to preserve and enhance the multicultural heritage of Canadians while working to achieve the equality of all Canadians in the country's economic, social, cultural and political life.

5. Since laws alone would not eliminate racial discrimination, a national public education campaign to encourage individual Canadians to assume personal

responsibility in the fight against racism had been built around the annual commemoration of the International Day for The Elimination of Racial Discrimination. The Federal Government had also contributed financial and technical assistance to help the business community, labour organizations, voluntary and other private organizations, and public institutions to ensure the full participation of all Canadians in Canadian society. For example, the Government of Canada had worked with the Canadian Labour Congress, the largest labour organization in the country, to develop race relations training materials and educational workshops across the country with the aim of eradicating racism from the workplace. The Government had collaborated with the Montreal Children's Hospital with a view to ensuring that services were readily accessible to its diverse clientele. Financing was also provided to assist immigrant integration through language training and learning about Canadian values.

6. In the economic realm, the Government had developed a Strategy on Multiculturalism and the Economy and Business to meet the challenge of building more effective and long-term partnerships in a national effort to address both the economic equality and business opportunity aspects of cultural diversity. As a central part of that strategy, the Government had recently provided funding to the Conference Board of Canada, a major non-profit organization, for a three-year comprehensive study of diversity and its implications for Canadian business, leading to production of a report that would form the basis for a series of seminars to be organized by the Conference Board in 1995.

7. In the enforcement and administration of laws, a variety of initiatives had been taken to deal with the problem of racial discrimination and preconceived notions about certain groups, following incidents in recent years which had involved police and members of visible minorities and had given rise to allegations of racism and undue use of force. The Canadian Association of Chiefs of Police were currently producing a series of manuals aimed at helping police organizations to improve police-minority relations. Copies of the first two titles in the series were being made available to the Committee. In keeping with the Association's proposals, police forces across Canada had developed various aboriginal and multicultural police training programmes. The Royal Canadian Mounted Police (RCMP) was Canada's national law enforcement agency responsible for a wide range of federal statutes; it also provided policing services under contract to the territories, 8 of the 10 provinces and approximately 200 municipalities. Several training sessions on cross-cultural education were provided for new recruits, in which ways in which inequality manifested itself in a multiethnic society were examined and case-studies of multiracial conflict discussed. Sensitivity towards multicultural issues was also being integrated into the overall organization and philosophy of the RCMP through citizen advisory committees and police community liaison mechanisms. Ontario, which had its own provincial police force, had also developed various training sessions for front-line officers to integrate antiracism awareness and knowledge into everyday policing functions.

8. Institutions responsible for the administration of justice had also responded to increasing concern about crimes aimed at specific ethnic or racial groups. For example, Ontario police were now required to develop and implement, in consultation with their local communities, procedures for the

investigation of hate- or bias-motivated crimes and hate propaganda offences, which included written procedures for the investigation and assessment of such crimes, as well as the maintenance of a database of hate-related crimes to facilitate trend analysis. The initiative was not restricted to the offences of disseminating or inciting hate propaganda contained in the Criminal Code, but included any criminal offences where the offender was motivated by hate towards the victim's race, religion, ethnic group, sexual orientation or disability.

9. Legislation had also recently been proposed to reform sentencing by establishing the principle that an offence would be treated more harshly if motivated by hate based on the race, nationality, colour, religion, sex, age, mental or physical disability or sexual orientation of the victim. Another principle would promote the use of alternative measures, wherever appropriate, to meet the special needs of aboriginal offenders.

10. Finally, the Canadian Judicial Council had adopted a resolution supporting in-depth, comprehensive education for the judiciary on a variety of social issues, including gender and race matters. Such education had in fact begun earlier with the production of a video film and booklet entitled "Judicial Awareness: Race, Culture and the Courts", which each judge appointed during the past two years had received. A copy was being made available to the Committee.

11. The reports showed that Canada had expanded its processes for negotiating land claims and for developing governmental arrangements with aboriginal groups. Significant progress had been made in the Canadian Arctic. Since 1991, legislation had been approved for land claim settlements covering over 450,000 square kilometres - an area larger than Sweden. In addition, the settlements provided financial compensation and other benefits such as resource co-management arrangements for the aboriginal groups involved. Of those groups, the Yukon First Nations, in addition to agreements involving nearly 41,500 square kilometres of land, financial compensation of nearly Can.$ 243 million and other benefits, had, under the Yukon First Nations Self-Government Act, received law-making powers on settlements lands, chiefly for the provision of programmes and services, such as for cultural activities, health care and the administration of justice. Four Yukon First Nations had concluded such self-government arrangements and 10 further arrangements were under negotiation.

12. A new Canadian Government had been elected in October 1993, with aboriginal issues a significant element of its platform. It had indicated that it would be proceeding on the premise that the inherent right of self-government was an existing aboriginal and treaty right within section 35 of Canada's Constitution Act, 1982. Federal representatives were meeting with national and regional aboriginal leaders, provincial and territorial governments, and other Canadians having a direct interest in the implementation of that inherent right.

13. With special reference to the situation in Davis Inlet, which had recently given rise to much concern in Canada and elsewhere because of reports of problems such as inadequate services, alcoholism and attempted suicides by some young children, emergency action had been taken but further steps were

needed to support both the immediate and long-term concerns of the Mushuau Innu community there. A Statement of Political Commitments had been released by the Government of Canada in February 1994 and accepted by the Band Council in April 1994 as a comprehensive and practical package intended to support the community's relocation and its renewal through a wide range of programmes.

14. The Royal Commission on Aboriginal Peoples, referred to in both reports, had completed an extensive research and public consultation process, involving visits to communities across Canada and the hearing of some 1623 aboriginal intervenors and 444 non-aboriginal intervenors. The Commission's deliberations had covered a broad range of issues concerning aboriginal people and Canadian society as a whole, and a number of reports had already been released. The Commission's final report was in preparation and would undoubtedly play a key role in advancing the efforts of governments in Canada to address the needs of the country's aboriginal citizens.

15. Canada appreciated the crucial role played by the Committee in the process of combating racial prejudice and racial discrimination throughout the world and attached particular importance to maintaining an effective dialogue with it. Canada had given priority in the Commission on Human Rights and the General Assembly to ensuring that the efforts of the Committee and of other treaty bodies were adequately supported.

16. Mr. WOLFRUM (Country Rapporteur) said that Canada had achieved much at both the federal and the provincial level in areas of interest to the Committee. Considerable efforts had been made to improve the situation of immigrants, visible minorities and aboriginals. With regard to the legal framework affecting aboriginals, Canada was clearly in the forefront of international developments. There were, however, some points open to criticism, such as the slow pace of progress on land matters relating to aboriginals, some aspects of the law enforcement system and the treatment of some immigrants, in particular, those from Africa or Asia.

17. It had been difficult to review the two reports since they did not follow the same format. The eleventh report (CERD/C/210/Add.2), an update of the tenth report considered by the Committee at its thirty-ninth session, was briefer than it might have been. It did not, for instance, mention the 1991 census, and had not followed the General Guidelines on reporting. The twelfth report (CERD/C/240/Add.1), while it had followed the Guidelines, gave considerable coverage to implementation of the Convention at provincial level and had grouped information by province rather than by article of the Convention.

18. The Canadian Charter of Rights and Freedoms had not been mentioned in the eleventh report despite its relevance to the work of the Committee, and had been only briefly mentioned in the twelfth report (para. 6). The representative of Canada had drawn attention in his introductory statement to the strong legal basis it provided against discrimination. However, information was available which suggested that the Charter was not implemented as such, though its provisions were binding at all levels of government and were applied as law by the courts. If so, that would indicate a need for procedures to ensure that government actions were consistent with the Charter. He would be glad if that point could be clarified.

19. He had in his possession a report, whose accuracy he was not in a position to judge and on which he invited the comments of the representative of Canada, to the effect that systematic discrimination against the African-Canadian community was being practised in southern Ontario, resulting in high youth unemployment, high school drop-out levels, communities with a sense of disadvantage and vulnerability, and a lack of promotion opportunities for Blacks in the workforce. A further report was in his hands which indicated that Black and Asian immigrants were less well treated than immigrants from Europe.

20. For the past eight years, the Canadian Human Rights Commission had apparently been endeavouring in vain, to have the Charter of Rights and Freedoms amended to give human rights provisions precedence over other laws. Further information was needed on that subject. Section 33 of the Charter, which read: "Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in sections 2 or section 7 to 15 of the Charter" and which had been invoked in a decision taken in Quebec, appeared to allow for the application of human rights provisions being waived, an option difficult to reconcile with international human rights standards. He would appreciate some information on that point with particular reference to the case of Ballantyne and MacIntyre v. Canada.

21. It was unfortunate that neither report made more than passing mention of the "Oka crisis" in the summer of 1991, when unresolved conflicts over land in the municipality of Oka going back to 1717 had led Mohawk communities to erect barricades, action that had eventually led to an exchange of gunfire and the death of a police officer. He would appreciate more detailed information on the stress taken to resolve the problem. Presumably, the action mentioned in paragraph 40 of the twelfth report was being taken with that end in view.

22. Both paragraph 2 of the eleventh report and paragraph 4 of the twelfth report stated that because Canada was a federal State, the responsibility for the areas covered by the Convention was shared by the Government of Canada, the provincial governments and the territorial governments. However, the Committee's only partner in dialogue was the Federal Government, the body that had ratified the Convention. If the legal situation meant that the Federal Government was unable to control the implementation of the Convention, such a situation would be a violation not only of the Convention but of international law in general.

23. Paragraph 3 of the twelfth report appeared to imply that the Convention did not cover Canada's aboriginal people. While appreciating the sensitivity of aboriginal peoples to being described as minorities or ethnic groups, they were of special concern and should be able to call on the protection of the Convention.

24. He asked whether the first sentence in paragraph 45 of the eleventh report was to be taken to mean that one language was to be predominant in Quebec to the detriment of other languages.

25. Although both reports covered many general areas of relevance to the Convention, neither made any reference to the ongoing discussion on constitutional reform.

26. It would be of interest to know more about the exact numbers of immigrants, their demographic composition, the procedure governing their admission, and any selection criteria in respect of age, profession, etc. The impression given by the reports was that immigration was a matter for the provincial rather than the federal authorities; if so, he wished to know why and whether it was for policy reasons. Which were the specific laws and regulations referred to in paragraph 4 of the eleventh report? Did they apply to all "identifiable groups" or only to immigrants and were the identifiable groups to which they applied synonymous with the "visible minorities" referred to by the representative of Canada in his introductory statement? Groups identified solely by their physical appearance were not the only groups covered by article 1 of the Convention. With regard to the "positive measures" mentioned in the same paragraph, he asked whether that phrase was to be understood only as a reference to the Canadian Multiculturalism Act. It would also be of interest to know whether immigrants had the opportunity to maintain their cultural identity and, specifically, whether mother-tongue instruction was offered in schools or financial support provided for the establishment of their own schools. Although some reference was made to federal multiculturalism programmes in paragraph 41 of the twelfth report, further details were required.

27. Regarding equality in employment, he commended the frank acknowledgement in paragraph 5 of the eleventh report that visible minorities and aboriginal peoples were underrepresented in the Canadian workforce, and the Canadian Government's policy of identifying and eliminating structural and attitudinal barriers, in accordance with articles 2 and 5 of the Convention. However, the apparent limitation to "visible" minorities and the application of the Employment Equity Act only to federally regulated private employers and federal Crown corporations employing 100 or more employees called for further explanation. He wished to know why, as was stated in paragraph 6 of that report, the Canadian Human Rights Commission had no direct responsibility for enforcement of the Employment Equity Act, and whether there was any mechanism to implement that Act. The implication in paragraphs 6 and 9 of the report that aboriginal peoples were not fully represented in the workforce was a matter of concern and called for further information, especially as regards their participation in higher levels of employment. It could be assumed that they were seriously underrepresented. Doubts about the effectiveness of the Employment Equity Act were borne out by the report published by the Grand Council of the Crees of Quebec in March 1994, according to which the Canadian Human Rights Commission had found that there had been little improvement in non-native employment.

28. The adoption of the Canadian Multiculturalism Act was a commendable initiative which complied fully with article 1, paragraph 4, and article 2, paragraph 2, of the Convention, but neither periodic report provided the detailed information previously requested by the Committee on the impact of implementation of the Act on the Canadian way of life.

29. Paragraph 16 of the eleventh report referred to the establishment of a new Department of Multiculturalism and Citizenship and to the Department's wide-ranging programmes. No mention was made of the Department in the twelfth report, however, and it was unclear whether the multiculturalism programmes referred to in the latter report were connected with that Department or not. Clarification was also needed of the relationship between that Department and the Canadian Race Relations Foundation referred to in paragraph 19 of the eleventh report. The Committee would appreciate a clear overall picture of existing structures and programmes in Canada's next periodic report so that it could keep pace with the rapid developments in that country.

30. With the adoption of its new Broadcasting Act (para. 20 of the eleventh report), Canada was clearly in the forefront of multicultural broadcasting policy, but he wished to know what the impact of the new Act was in practice, whether all languages spoken in Canada were used in radio and television broadcasting or only English and French, to what extent Indian and Inuit languages or dialects were used, and whether it was possible for Indian or Inuit groups to establish regional broadcasting operations.

31. In its ninth and tenth reports, Canada had reported on the 1985 amendments to the Indian Act designed to remove discriminatory provisions, and the eleventh report (para. 21) stated that over 73,000 individuals had gained status through the amendments and were eligible for the rights and benefits they entailed. He wished to know, however, whether they had resulted in additional funding or land or both for the groups concerned. The Canadian Human Rights Commission report of 1990 quoted in the 1994 Cree Report had been critical of the Indian Act and its amendments, which were described as "a paternalistic relic of the past" incompatible with Canada's domestic and international human rights obligations. Was that criticism justified and what were the reasons for it? At the 905th meeting of the Committee, the representative of Canada had mentioned an evaluation study carried out by the Federal Government and several aboriginal organizations concerning the amendments to the Indian Act. There was no mention of the study in the twelfth report; had it been completed and what were its findings?

32. The constitutional changes that had failed to be instituted in Canada had contained far-reaching provisions concerning aboriginal rights which would have been of great interest to the Committee. What was the status of those provisions today?

33. It was very doubtful whether the provincial judicial system in Canada fully met the requirements of article 6 of the Convention on the provision of effective protection and remedies and article 2, paragraph 1 (c), on the obligation to review discriminatory policies or laws. In a major study of the justice system in Alberta, the task force on the criminal justice system and its impact on the Indian and native peoples of Alberta had found that aboriginals were often subjected to what appeared to be a foreign system of justice delivered to a large extent by non-aboriginals and that the imposition of the majority's justice system on the aboriginal minority resulted frequently in unfairness and inequity. The section on Alberta in paragraphs 63 to 66 of the twelfth report regrettably contained no reference to that task force and its findings. Similarly, the report of the Aboriginal Justice Inquiry in Manitoba had found that the justice system had failed

Manitoba's aboriginal people, to whom justice had been denied. Research on provincial court data carried out for that Enquiry had revealed that aboriginal people constituted 11.8 per cent of the Manitoba population, yet accounted for more than 50 per cent of inmates of correctional institutions; aboriginal males between 18 and 35 spent 1.5 times longer in pre-trial detention than other suspects; only one in five aboriginals accused was successful in obtaining bail; and some 25 per cent of aboriginal persons received sentences involving some degree of incarceration, compared to 10 per cent of non-aboriginal persons. Paragraphs 135 to 137 of the twelfth report referred to that problem without providing sufficiently substantive detail. He did not maintain that there was proof of discrimination, but an explanation was required. Various enquiries into the judicial system in Canada and equal access to treatment for all Canadians had been referred to in the ninth, tenth, eleventh and twelfth reports, but no information had been given on their findings and results. Furthermore, the Canadian representative at the Committee's 905th meeting had announced that a joint federal/provincial initiative was under way to create a Canadian police race relations centre; the Committee wished to be informed about the results achieved through that programme. He also repeated the Committee's previous request for information about the functions, composition and rulings of the human rights tribunal established under the Canadian Human Rights Act.

34. The reports lacked any information on the implementation of article 5 (d) (iv) of the Convention and on the right to health. Other States parties to the Convention, notably Australia, had had experience of proceedings brought by aboriginal groups for damage caused by the introduction of alcohol. It would be of interest to know whether alcohol was a problem among aboriginal communities in Canada and what measures had been taken to curb alcohol consumption in those communities. More information was sought about the national native alcohol abuse programme referred to in paragraph 33 of the eleventh report.

35. In replying to questions asked by Committee members at the 906th meeting, the representative of Canada had referred to the Government's recognition of the special status of the aboriginals and to comprehensive land settlement and self-government agreements being negotiated with them. As far as he was aware, however, such negotiations were proceeding at an extremely slow pace, and very few new agreements had been concluded. With regard to the reference in paragraph 13 of the twelfth periodic report to a framework agreement providing cash in lieu of land, he asked whether a change of policy was involved or whether the cash settlement applied only to that particular case. Further information was requested on claims for land and benefits put forward by aboriginal groups, particularly by the Indian people of Labrador and Newfoundland.

36. He requested additional information on the background and court rulings in several cases - the R. v. Keegstra and R. v. Andrews and Smith cases, the Central Alberta Dairy Pool v. Alberta Human Rights Commission case, the Delgamukw v. British Columbia case, and the Halferdahl v. Canada (Mining Recorder, Whitehorse Mining District) claim.

37. According to the twelfth periodic report, it had been expected that employment equity legislation proposed by the Employment Equity Commissioner

of Ontario would be passed in 1993. He would like to know why such action had been postponed and what amendments had been proposed. Further details were required concerning the Yukon territory's new Education Act (para. 68 of the eleventh report). Several cases, including one that had been declared admissible by the United Nations Human Rights Committee, had been decided concerning minority language educational rights. He hoped that full details of the situation of minority languages would be provided in the next report. Further information was also needed on the practical implications of Ontario's recognition of the inherent right of aboriginal people to self-government, and on the establishment of aboriginal electoral districts in Nova Scotia, New Brunswick and Quebec, which might considerably enhance the right of aboriginal peoples to participate in the policy-making process.

38. In conclusion, he said that Canada had clearly undertaken wide-ranging initiatives but that much remained to be done before the goals were achieved. In a spirit of constructive criticism, he offered the Committee's advice on the presentation of reports in order to make it easier to assess the coherence and effectiveness of Canada's many programmes.

39. Mr. SHANNON (Canada) requested Committee members to identify clearly the source material from which their comments and questions were drawn so that an adequate reply could be provided.

40. Mr. VALENCIA RODRIGUEZ said that both the federal and the provincial authorities were obliged to take direct action to implement the convention. It was important to view the information supplied by Canada in that light.

41. Canada had adopted a number of legal instruments in the field of race relations, including the Employment Equity Act and the Canadian Multiculturalism Act. He would like to know whether the new Department of Multiculturalism and Citizenship mentioned in paragraph 16 of the eleventh report and the Canadian Race Relations Foundation mentioned in paragraph 19 had yet been established and, if so, what they had achieved so far. He would also like to know more about the effects of the amendments to the Indian Act mentioned in paragraph 21.

42. Canada had supplied information about specific articles of the Convention in the twelfth periodic report. In respect of article 2, he would like to know more about the negotiations between aboriginal groups and the Federal Government over land claims (para. 11). He had been particularly interested by the reference to community-based aboriginal justice programmes, developed and delivered by aboriginal people themselves (para. 16) and would welcome more information about them and the Federal-Provincial-Territorial Working Group on Multiculturalism and Race Relations in the Justice System (para. 18). He would also like to know more about the actual achievements of the Employment Equity Working Group for Aboriginal Employees (para. 26). Paragraph 32 of the eleventh report referred to protests by Indians at Oka. He would like to know the reason for the protests and the eventual outcome.

43. With reference to article 4 of the Convention, he noted with satisfaction from paragraph 28 of the eleventh report that, in 1990, the Supreme Court had upheld section 319 (2) of the Criminal Code, which prohibited the dissemination of hate against an identifiable group, deeming that to be a

reasonable limit on the guarantee of freedom of expression. However, he had been surprised by another decision of the Supreme Court, mentioned in paragraph 6 of the twelfth report. In that decision, the Supreme Court had stated that section 181 of the Criminal Code, which made it a criminal offence to publish a false statement likely to cause injury to the public interest, was not consistent with the guarantee of freedom of expression in section 2 (b) of the Canadian Charter of Rights and Freedoms. The decision was a particularly delicate one, because the defendant in the case concerned had published a booklet arguing that the massacre of Jews by the Nazis during the Second World War had never actually taken place. He would welcome more information about the scope of that decision.

44. With reference to article 5 of the Convention, dealt with in paragraphs 8-10 of the twelfth report, he would welcome more information about employment and religious freedom, particularly in respect of small minority groups.

45. With reference to article 6, he noted from paragraph 39 of the twelfth report that the Government proposed to amend the Canadian Human Rights Act and that, among other things, human rights tribunals were to rule on the payment of interest and legal costs. He would like to know what results the changes had had in practice.

46. With reference to article 7 of the Convention, he would like more information about the achievements in practice of Federal multiculturalism programmes (twelfth report, paras. 41-44). The Police-Minority Youth Summer Employment Project mentioned in paragraph 45 was a valuable and instructive initiative which other countries would do well to copy.

47. He was glad to see from the information about measures at the provincial and territorial level mentioned in both reports that all Canada's provinces had a legal framework for combating racial discrimination. He had particularly noted the many measures designed to guarantee the implementation of the Nova Scotia Human Rights Act (twelfth report, paras. 263-273) and the creation of the Race Relations and Policing Unit of Ontario (eleventh report, para. 47); what activities had that unit undertaken?

48. He asked whether there were any differences in the scope of activities of human rights bodies in the different provinces and whether their activities were consistent with article 4 of the Convention. In particular, he would welcome more information about the application in practice of the amendments to the Charter of Human Rights and Freedoms in Quebec (twelfth report, paras. 182 and 183).

49. The reports mentioned a number of working and advisory groups which were contributing to the revision of human rights legislation, for instance in Ontario and Nova Scotia. He would welcome more information about the results of their work.

50. Paragraph 61 of the twelfth report gave statistics on the number of complaints of racial discrimination submitted to the British Columbia Council of Human Rights, but the Committee needed similar detailed information for the other provinces and at the federal level if it was fully to appreciate the

work done by the human rights tribunals. He would welcome more information about the racial harassment case dealt with by the Quebec Human Rights Tribunal, mentioned in paragraph 207 of the twelfth periodic report. In general, he would welcome more information about measures taken by provincial governments to improve the situation of aboriginal peoples and minority groups.

51. It was gratifying to note from paragraph 25 of the eleventh report that the provincial Governments had involved non-governmental organizations in their preparations for the annual International Day for the Elimination of Racial Discrimination. The provincial authorities, particularly the New Brunswick Department of Education, had done much to promote understanding among ethnic groups by means of courses, seminars and other measures (twelfth report, paras. 248-254). In Newfoundland and Labrador, over 2,000 students had taken social studies courses dealing with racial and other forms of discrimination (twelfth report, para. 297). The Canadian authorities should continue that good work.

52. Mr. de GOUTTES said the Committee was particularly interested in Canada's reports because of the unique situation of the aboriginal people. Canada's federal structure meant that information on action at the federal level was treated separately from information relating to the provinces, so that the reports had not always followed the Committee's reporting guidelines.

53. Canada had adopted a number of positive measures to combat racial discrimination against aboriginal people, but the authorities still did not take enough account of the barriers and discrimination which confronted aboriginal people. The report published by Donald McRae of the University of Ottawa in May 1993 and a preliminary critique of Canada's eleventh periodic report, published by the Quebec aboriginal organization, the Grand Council of the Crees in March 1994, showed that aboriginal people still encountered difficulties in such areas as housing, health care and land claims. The Committee required information about a number of social indicators which helped to show the degree of integration of aboriginal people into Canadian society. For instance, the rates of alcoholism, drug abuse, delinquency, imprisonment and suicide among aboriginal people were all disproportionately high. He would welcome data about those indicators; indeed, he had made the same request when the Committee had considered Canada's tenth periodic report in 1991.

54. The reports before the Committee did not provide adequate statistics about the number of complaints of racial discrimination or the action taken as a result. The Committee needed to know the number of convictions for offences of racial discrimination and the severity of the penalties imposed. The Committee also needed to know the extent to which aboriginal people and immigrants enjoyed effective access to the justice system.

55. Paragraph 4 of the twelfth periodic report stated that the responsibility for the areas covered by the Convention was shared by the federal, provincial and territorial Governments. For the benefit of members who, like himself, came from countries with a non-federal structure, he would welcome an explanation of how such responsibilities were divided in practice.

For instance, was the Federal Government competent to make the declaration provided for in article 14 of the Convention or would it first need to consult the provincial Governments?

56. Like Mr. Valencia Rodriguez, he was concerned that the decision of the Supreme Court referred to in paragraph 6 of the twelfth periodic report seemed to exonerate an advocate of the "revisionist" theory about the Holocaust at a time when many other States were prohibiting such writing as racist propaganda. Did Canada have any plans for legislation to prohibit the dissemination of revisionist ideas?

57. He would welcome more information about two commendable initiatives: the community-based aboriginal justice programmes mentioned in paragraph 16 of the twelfth report and the Police-Minority Youth Summer Employment Project mentioned in paragraph 45. How many young people had taken part in the employment project, and what lessons had been learned?

58. Paragraph 42 of the twelfth periodic report referred to the activities of "hate groups". The popularity of such groups was a useful gauge of the degree of racist feeling among young people. He would accordingly like to know how many hate groups were active, how they recruited their members and what influence they exerted among young people.

59. Finally, he asked whether the Canadian Government was planning to make the declaration provided for in article 14 of the Convention, thus recognizing the Committee's competence to deal with complaints from individuals.

60. Mr. CHIGOVERA commended the Canadian Government for its positive steps to combat racial discrimination. However, the fact that human rights issues were mainly dealt with by the provincial Governments unfortunately meant that they were not dealt with consistently throughout the country. The Committee had suggested that the Canadian Government should consider amending the Constitution to ensure that all fundamental human rights issues were subject to federal rather than provincial law. Was the Government considering such a step?

61. Canadian human rights legislation was based on the adversarial system, which assumed that the victim of an alleged offence had the knowledge, courage and tenacity to pursue a claim through the courts. Victims who were ignorant, illiterate - or unable to afford legal fees - were often effectively prevented from seeking redress. He would like to know what the situation was in cases where a victim of racial discrimination was effectively precluded from seeking redress through the courts.

62. There had been complaints that the Employment Equity Act, mentioned in paragraphs 5-10 of the eleventh report, had not achieved the intended results because employers were only obliged to draw up employment equity plans, not to implement them. He understood a parliamentary review of the Employment Equity Act had concluded that the Act had had a negligible impact on employers, whose employment equity record was already poor. The review had recommended the adoption of enforceable goals and the extension of the Act to cover the federal civil service. He would like to know why the civil service had not been included from the outset. Moreover, the Act applied only to federally

regulated private employers and federal Crown corporations employing 100 or more employees. That surely excluded a large proportion of the Canadian workforce: why had such a restriction been introduced?

63. Mr. BANTON said that the comprehensive report of Canada due in 1997 should provide an in-depth review of the prevailing situation and rectify certain omissions in the eleventh and twelfth periodic reports. It should outline the scope of protection against discrimination in effect as well as in purpose, as Canada's record in that area was better than some other States. It should avoid repeating the statement that the responsibility for areas covered by the Convention was shared by the Government of Canada, the provincial governments and the territorial governments because, although the responsibility was shared, it was not shared equally. The national Government was the signatory to the Convention, but the present reports failed to mention how the national Government viewed the extent to which provincial governments were accepting their share of the commitments assumed and whether it was satisfied with the cooperation it received from those governments in various areas.

64. It was to be hoped that non-governmental organizations and other bodies in Canada would receive copies of the reports submitted to the Committee and of its concluding observations.

65. With regard to article 3, the prohibition of segregation was not restricted to any particular part of the world or to forms of segregation that resulted from governmental action. In many industrial countries, residential, educational and other forms of segregation came about as a result of the free choice of residents. Governments should monitor such trends, because inequalities in one generation could be transmitted to the next and could then cause discrimination. Canada should provide information on how it was exerting its influence to prevent such a situation from arising.

66. Canada's record of implementation of article 4 of the Convention was encouraging but not perfect. It should remember that, under paragraph 9 of the General Guidelines Regarding the Form and Contents of Reports to be Submitted (CERD/C/70/Rev.3), copies of all relevant judicial decisions should be made available to the Committee.

67. In its subsequent comprehensive report, Canada should include a national review of action to implement the provisions of article 5 of the Convention, section by section. For example, there should be details not simply of the political rights available, but of the extent to which they were exercised in practice, and a breakdown of the number of people belonging to the various ethnic groups who availed themselves of the right to vote. There was a disappointing absence of information on paragraph 5 (e) (iv) in the present reports. Aboriginal health needs were different and should be catered for with that point in mind. In view of reports that 11 young people had tried to commit suicide within a period of 14 days on the Pikangikum reserve and that there had been 62 attempted suicides in the preceding two years, indices of suicide, alcoholism and life expectancy should be included in subsequent reports so that the effectiveness of health-care delivery and the success of official policies could be measured.

68. When reporting on the implementation of article 6 of the Convention, the Government of Canada should describe how it assessed the effectiveness of the remedies available. Various sources had intimated that the situation was unsatisfactory in that remedies existed on paper but were ineffective in practice.

69. The information on the implementation of article 7 was commendable, but Canada might also be able to provide information that would be of interest to other States parties on the relative effectiveness of different measures. The experience of Canada and other countries having similar problems and institutions could usefully be synthesized for discussion within the framework of the Third Decade.

70. The Canadian representative had invited suggestions on how Canada could help the Committee. Meetings of States parties could provide an ideal opportunity for encouraging more States parties to embark on the amendments procedures and Canada could give valuable assistance in that connection. It could also play a useful part at such meetings in encouraging States parties which had not submitted reports to do so and thus facilitate the Committee's work.

71. Mrs. SADIQ ALI said that, except in the case of Quebec, no figures had been provided on the number of African immigrants, nor had they been included in the 1991 census. Ontario was the first province to acknowledge the inherent right of aboriginal peoples to be self-governing. She asked whether some form of aboriginal self-government had been devised by devolving provincial powers to native groups.

72. According to paragraph 190 of the twelfth report, there had been cases of discrimination against the Black community and its relations with the police were tense. She asked whether the training of police officers had shown any positive results or whether the Government of Canada was seeking to intensify human rights training programmes for law enforcement officers.

73. As Canada was a haven for many refugees and displaced persons, how did legislation in Canada deal with asylum seekers and economic migrants?

74. Statistics were needed on the number of educated aborigines and the basic educational requirements for recruitment to the police force.

75. The International Work Group for Indigenous Affairs had reported that indigenous peoples in Canada had twice the infant mortality rate of the rest of the country and on average lived 10 years less. The suicide rate among aboriginal peoples was three times that of Canadians as a whole, while in the 15-25 age group it was six times higher. Even though indigenous people accounted for 2.5 per cent of the population, they constituted 9 per cent of prison inmates. She requested the Canadian representative's comments on those statistics.

76. Mr. van BOVEN said that, in a letter addressed to the Committee, the Canadian Council of Churches had stated that the late release of Canada's twelfth periodic report would limit the ability of Canadian non-governmental

organizations to submit comments to the Committee. He asked how widely the reports of the Government of Canada and details of its treaty obligations were published, disseminated and discussed at the national level.

77. He requested additional information on the Canadian Human Rights Commission's efforts to secure amendments to the Human Rights Act which would assert the supremacy of human rights provisions over other laws, as mentioned in the letter. He would also like to have the delegation's comments on the statement that persons governed by the Indian Act were not eligible to engage the services of the Canadian Human Rights Commission, and also that persons governed by the Immigration Act could in practice face difficulties in approaching the Commission because eligibility required that a person be lawfully in Canada and a decision on that point was at the discretion of the Minister.

78. The letter had gone on to suggest that the Canadian Human Rights Commission could serve as a national authority under article 14 of the Convention. He drew attention to general recommendation XVII on the establishment of national institutions to facilitate the implementation of the Convention and requested that the recommendation be brought to the Commission's notice and that consideration be given to its potential for assisting the Government of Canada in the preparation of reports to be submitted to the Committee. Furthermore, he noted that Canada had not made a declaration under article 14 of the Convention. It should consider doing so in view of its constructive attitude to international procedures promoting and protecting human rights.

79. Paragraph 20 of the twelfth report referred to the representation of aboriginal people and visible minorities in the Public Service. More detailed information on their representation in law enforcement bodies and an explanation of the apparently curious term "visible minorities" should be provided. Canada should be congratulated on its Police-Minority Youth Summer Employment Project, which was a valuable initiative. He would also be interested in hearing the extent to which Canadian authorities were implementing general recommendation XIII on the training of law enforcement officials in the protection of human rights.

80. Like Mr. de Gouttes, he was uneasy at the outcome of the R. v. Zundel case. The court had ruled against section 181 of the Criminal Code, which it considered to be contrary to the guarantee of free expression. In that and the other case of R. v. Keegstra, he would be interested to know whether Canada's international obligations had been taken into account. A copy of the court decision, or extracts, should be sent to the Committee.

81. More detailed information should be provided to supplement the rather general description of amendments to the Canadian Human Rights Act given in paragraph 39 of the twelfth report.

82. Noting that paragraph 26 of the eleventh report mentioned that redress, through a formal apology, had been made to Canadian ethnocultural communities whose members had been mistreated by Canadian Governments in the past, he asked whether, given the absence of any reference to the matter in the twelfth report, such redress was still available.

83. Mr. DIACONU said that certain measures taken by the Government of Canada, including the provision of land for indigenous populations and reforms of the judicial system, were either taking too long or had been introduced too late.

84. The two reports failed to give a clear picture of how Canada was implementing the Convention. Their very layout, province by province, made it difficult to arrive at an overall assessment. In subsequent reports, the Government of Canada should group information according to articles of the Convention.

85. The relationship between the Convention and national legislation was of particular importance for a federal State, and more information should be provided on measures to harmonize that relationship. It seemed that, thus far, the Canadian Human Rights Commission had been unsuccessful in ensuring the supremacy of human rights enactments over other laws.

86. Canada had not entered any reservation to article 4 of the Convention and should therefore ensure its implementation and provide information on the relevant action in its reports to the Committee. Paragraph 7 of the twelfth report merely referred to making the dissemination of hatred a punishable offence. In itself, that was not enough fully to satisfy the requirements of article 4 of the Convention.

87. The eleventh and twelfth periodic reports of Canada gave a confusing picture of the country's demographic and ethnic composition. The reference to "visible minorities" was disturbing, especially if it was a legal definition with implications for their rights.

88. Information on education in Canada was equally meagre, with no reference to instruction in the mother tongue, school organization and attendance, or newspapers and libraries catering for the various ethnic groups. It was important for the Committee to see how a multicultural society such as Canada was trying to ensure that all ethnic populations and minorities were treated fairly and enjoyed the same cultural opportunities.

89. He asked why persons governed by the Indian Act were not eligible to engage the services of the Canadian Human Rights Commission, and requested fuller information on Canada's policies relating to immigrants.

The meeting rose at 1 p.m.